

CR-206-2016 (O&M)
Date of decision:24.05.2018

Gurpartap Singh

...Petitioner

Versus

Jaswant Kaur

...Respondent

CORAM: HON'BLE MR. JUSTICE KULDIP SINGH

Present: Mr. Saurabh Bhardwaj, Advocate, for the petitioner.

Mr. S.S.Gurna, Advocate, for the respondent.

KULDIP SINGH, J. (ORAL)

Prayer in this petition is for setting aside the impugned order dated 24.12.2015 (P-12) passed by Civil Judge (Senior Division), Patiala in Civil Suit No.56/06.08.2011 titled as “Jaswant Kaur Vs. Gurpartap Singh”, vide which the application (P-10), filed by the petitioner to lead secondary evidence to prove photocopies of application (P-3), compromise (P-4) and statement recorded by the police during compromise (P-5) by leading secondary evidence, since the original were misplaced by the police, was dismissed.

Heard.

It comes out the plaintiff/respondent filed a Civil Suit No. 56 dated 06.08.2011 against the present petitioner for recovery of an amount of Rs.8,72,000/- (Principle amount Rs.8,00,000/- plus interest Rs.72,000/- @ 1.5% per month from 04.02.2011 to 04.08.2011) along with future interest @ 1.5% per month.

During the evidence, the defendant filed second application for seeking permission to lead secondary evidence to prove the photocopies of application, compromise, and statements recorded during the compromise on an application moved by the defendant-Gurpartap Singh before the SHO, P.S. Tripuri, Patiala regarding the cheques and other documents.

The trial Court has dismissed the application on the ground that the

conduct of the applicant was a delaying tactic. On 21.04.2015, defendant undertook to close his evidence but now he has filed the present application. The case of the defendant is that both the parties were called to police station to compromise the matter, which has taken place.

Learned counsel for the petitioner pointed to the statement of MHC of Police Station Tripuri, Patiala who has stated that record is not traceable.

I am of the view that the contention of the delaying tactics can be dealt with by passing appropriate orders. Therefore, at this stage, the evidence of the plaintiff cannot be shut by saying that there is no evidence regarding the existence of said documents. In these circumstances, the impugned order is set aside. The present petition is allowed. The petitioner is permitted to prove the photocopies of the application of compromise and statements recorded during compromise on the application moved by MHC of P.S. Tripuri, Patiala regarding cheque and other documents, by way of secondary evidence subject to the conditions that the defendant shall lead the evidence regarding existence and loss of the originals along with the main evidence and if at the time of arguments, the Trial Court finds that the existence and loss of the originals document is proved only then documents will be admitted in evidence otherwise the same be discarded.

The defendant shall be given two opportunities to conclude the evidence by taking the summon dasti.

(KULDIP SINGH)
JUDGE

24.05.2018
Hemlata

Whether speaking/reasoned
Whether reportable

Yes
No